

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

3 UNITED STATES OF AMERICA,)

4 Plaintiff,)

5 VS.)

CASE NO. 5:17-CR-50027

6 CHANTHALANGSY PENG,)

7 Defendant.)

8
9 TRANSCRIPT OF CHANGE OF PLEA HEARING
BEFORE THE HONORABLE TIMOTHY L. BROOKS
10 August 1, 2017; 10:35 a.m.
FAYETTEVILLE, ARKANSAS

11 FOR THE GOVERNMENT:

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16

17 FOR THE DEFENDANT:

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21 Proceedings recorded in realtime via machine shorthand.
22

23 **Dana Hayden, CCR, RMR, CRR**
Federal Official Court Reporter
24 35 East Mountain Street
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25

1 THE COURT: The next matter to come before the
2 Court today is the case of the United States versus Peng
3 Chanthalangsy. Our case number is 5:17-CR-500027,
4 defendant number 1. Dustin Roberts appears on behalf of
10:35AM 5 the United States. Jack Schisler is here representing
6 Mr. Chanthalangsy. The Court's probation officer Diem
7 Nguyen is present as well. She will be doing the
8 presentence investigation in this case.

9 Good morning, Mr. Chanthalangsy.

10:35AM 10 THE DEFENDANT: Morning.

11 THE COURT: Sir, do I understand correctly that
12 you would like to change your plea in this case as it
13 relates to Count Five of the indictment which has been
14 brought against you in this case? Count Five charges
10:35AM 15 you with possession of child pornography, in violation
16 of federal law. Are you wanting to enter a guilty plea
17 to that charge?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right. Well, before I can
10:36AM 20 determine whether it would be appropriate to allow you
21 to do that or not, I have to consider many different
22 things. For example, I need to make sure that you are
23 competent today to enter a guilty plea; I need to make
24 sure you've had proper representation of counsel; I need
10:36AM 25 to make sure that you understand the rights that you

1 would be giving up if you entered a guilty plea; I need
2 to make sure you understand the nature of this charge,
3 as well as the consequences that you would be facing if
4 you entered a guilty plea; I need to make sure that you
5 admit to all of the facts that make you guilty of this
6 charge; and ultimately I must ensure that any guilty
7 plea you are to offer today was given in both a knowing
8 and voluntary manner.

9 So that's a lot of territory to cover. We will
10 do that by me asking you a series of questions and you
11 providing your answers verbally to me. I will require
12 that your answers be given under oath; but before I
13 place you under oath this morning, I want to review with
14 you the ground rules.

15 Number one, should you provide a false answer
16 to any of my questions today, that could in and of
17 itself potentially subject you to separate charges of
18 making false statements or perjury. Do you understand
19 that?

20 THE DEFENDANT: Yes.

21 THE COURT: Secondly, it is important that you
22 only answer questions today that you understand. A lot
23 of my questions will be informing you about certain
24 rights that you have and asking whether you understand
25 that you have that right or that you're forgoing that

1 right, as the case may be; and what's important is that
2 if you don't understand one of my questions or you don't
3 understand a point that I'm trying to confirm that you
4 understand, then just tell me you don't understand it,
10:38AM 5 and I will be more than happy to repeat it or rephrase
6 it, give a further explanation or whatever else might
7 need to be done so that you're understanding and we're
8 tracking. Is that agreeable?

9 THE DEFENDANT: Yes.

10:38AM 10 THE COURT: Now, Mr. Schisler has been
11 representing you throughout these proceedings; is that
12 correct?

13 THE DEFENDANT: Yes.

14 THE COURT: Has Mr. Schisler made himself
10:38AM 15 available to you to consult with and confer with?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you fully satisfied with all of
18 Mr. Schisler's legal services and representation of you
19 in this case?

10:39AM 20 THE DEFENDANT: Yes.

21 THE COURT: At this time let me also tell you
22 that should you desire to confer with Mr. Schisler
23 throughout this proceeding or at any point during the
24 proceeding, I'll give you permission to do that. Just
10:39AM 25 let me know that you would like to visit with him and

1 then we'll pause while the two of you confer privately.

2 Is that agreeable as well?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Those are our three

10:39AM

5 ground rules. If you'd please stand to raise your right
6 hand to be sworn.

7 (Whereupon, the defendant was duly sworn.)

8 THE COURT: All right. If you would, kind of
9 pull that microphone just a little bit closer to you.

10:39AM

10 We're going to start with some background questions.
11 Will you please state your full name.

12 THE DEFENDANT: Peng Chanthalangsy.

13 THE COURT: How old are you?

14 THE DEFENDANT: I am 37 years old.

10:40AM

15 THE COURT: Prior to your arrest, where did you
16 live?

17 THE DEFENDANT: At 4007 West Olive Street in
18 Rogers.

19 THE COURT: Are you married?

10:40AM

20 THE DEFENDANT: No.

21 THE COURT: Do you have any children?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How many and what are their ages?

24 THE DEFENDANT: I have a daughter. She's 5

10:40AM

25 years old, I believe.

1 THE COURT: How far did you go in school?

2 THE DEFENDANT: I've got my GED and went
3 through some college.

10:40AM

4 THE COURT: In terms of grade school, how far
5 did you go in grade school?

6 THE DEFENDANT: I went to eleventh grade and
7 then I got my GED there.

8 THE COURT: All right. And you mentioned
9 college. Where did you take college courses?

10:40AM

10 THE DEFENDANT: At NWACC.

11 THE COURT: What were you studying there?

12 THE DEFENDANT: Computer science.

13 THE COURT: Prior to your arrest, tell me about
14 the different types of employments or occupations that
15 you were engaged in going back three years.

10:41AM

16 THE DEFENDANT: I started taking some
17 photography.

18 THE COURT: Do you consider yourself to be in
19 good physical health today?

10:41AM

20 THE DEFENDANT: Yes.

21 THE COURT: Do you take any prescription
22 medications?

23 THE DEFENDANT: No.

24 THE COURT: Have you in the last 24 hours
25 consumed any medications, drugs, alcohol, or any

10:41AM

1 substance that would impair your ability to understand
2 what's going on in the courtroom today?

3 THE DEFENDANT: No.

10:41AM 4 THE COURT: Have you ever been treated by a
5 doctor for a mental health condition?

6 THE DEFENDANT: No.

7 THE COURT: And do you, in fact, understand,
8 sir, that this hearing has been set so that the Court
9 could consider your request to enter a guilty plea to
10 Count Five?

11 THE DEFENDANT: Yes.

12 THE COURT: Mr. Chanthalangsy, we're starting
13 down this path, the end of which you'll be asked how
14 you'd like to plea; and if you change your plea to
10:42AM 15 guilty, then that's it. You will have -- if I accept
16 your plea at that time, you will have forgone your right
17 to go to trial; and not only that, you will have forgone
18 your right to all of the rights and protections that go
19 along with a trial. Do you understand that?

10:42AM 20 THE DEFENDANT: Yes.

21 THE COURT: Let me explain what some of those
22 rights are. If you opted not to plead guilty and,
23 instead, go to trial, you would have the right to have a
24 jury consider all of the evidence and decide whether you
10:43AM 25 were guilty or not guilty.

1 At a trial you'd have the right to have an
2 attorney represent you.

3 At a trial you would have the right to see,
4 hear, and cross-examine any witnesses that the
10:43AM 5 government might call to testify against you.

6 At a trial you and your attorney would have the
7 right to use the Court's subpoena power to compel the
8 attendance of any witnesses that you might like to call
9 at trial.

10:43AM 10 At a trial, the burden of proof would be on the
11 government to establish beyond a reasonable doubt each
12 and every element of each charge that has been brought
13 against you; in other words, it would not be up to you
14 to prove that you were innocent but, rather, the burden
10:44AM 15 of proof would remain on the government throughout the
16 trial.

17 So those are some rights and protections that
18 you would have if the case proceeded to a trial; but if
19 you opt for a guilty plea, you are waiving and forgoing
10:44AM 20 not only your right to a trial but all of these rights
21 and protections that I've just explained. Do you
22 understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: There are two more differences
10:44AM 25 between, procedurally and substantively, how things work

1 if you opt for a trial versus how things work if you opt
2 for a guilty plea. The first has to do with your Fifth
3 Amendment rights.

4 Now, at trial you could assert your Fifth
10:45AM 5 Amendment right and not testify. The government cannot
6 force you at any trial to provide testimony against
7 yourself.

8 Now, the decision to whether you testify or not
9 is totally up to you; and if you wanted to testify in
10:45AM 10 your own defense, you could waive your Fifth Amendment
11 right and you could testify, but the point is no one is
12 going to make you testify if you opted for a trial.

13 It doesn't work exactly that way, though, if
14 you plead guilty. As I mentioned earlier, before I will
10:45AM 15 accept your guilty plea, I'm going to require that you
16 admit to the facts that make you guilty, at least with
17 respect to Count Five of the indictment and the
18 possession of child pornography. So to that extent, you
19 will be required to waive your Fifth Amendment rights in
10:46AM 20 order to plead guilty. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: One more difference. This has to
23 do with how things work on appeal. If you opted for a
24 trial and a jury found you guilty, you have an automatic
10:46AM 25 right to appeal a jury's finding of guilt to the United

1 States court of appeals; and on an appeal following a
2 trial, you could contend that the jury got it wrong and
3 that you were not guilty or that there was not
4 sufficient evidence presented from which a reasonable
10:46AM 5 jury could have or should have found you guilty, but it
6 doesn't work that way if you plead guilty.

7 Remember that before this is over, you're going
8 to have to admit to the facts that make you guilty; and
9 because of that, on appeal -- and even though you would
10:47AM 10 have the right to appeal, for example, the sentence that
11 the Court ultimately imposes, but if you plead guilty
12 and you take an appeal, you cannot argue on appeal that
13 you are factually not guilty. Do you understand that
14 distinction?

10:47AM 15 THE DEFENDANT: Yes.

16 THE COURT: Mr. Chanthalangsy, the indictment
17 in this case charges you with five counts, or five
18 crimes. Four of those have to do with the distribution
19 of methamphetamine; but Count Five, the one you're
10:48AM 20 proposing to plead guilty, charges you with possession
21 of child pornography, in violation of federal law. Do
22 you understand that that is the charge that you're
23 proposing to plead guilty to?

24 THE DEFENDANT: Yes.

10:48AM 25 THE COURT: And do you understand -- well, let

1 me ask you this: Have you had a full, fair, and
2 complete opportunity to confer with Mr. Schisler about
3 the nature of this charge in Count Five and what the
4 government would have to show in order to obtain a
5 conviction?

10:48AM

6 THE DEFENDANT: Not really.

7 THE COURT: All right, sir. Would you like to
8 take some time to confer with Mr. Schisler -- and the
9 question on the table, before we recess for a moment, is

10:49AM

10 I want to be sure that you understand the nature of the
11 charge in Count Five -- this is the charge of possession
12 of child pornography -- and I want to be sure that you
13 understand the nature of that charge in terms of what
14 the government would have to prove at trial in order to
15 sustain and meet their burden of proof.

10:49AM

16 So we're going to take about five-minute
17 recess, or as long, actually, Mr. Schisler, as you need,
18 and just let us know when you're ready.

19 MR. SCHISLER: Yes, your Honor.

10:49AM

20 THE COURT: We're in recess.

21 (Recess from 10:49 a.m. to 11:00 a.m.)

22 THE COURT: All right. On a recess,

23 Mr. Chanthalangsy, have you had a chance to --

24 I'm sorry, Mr. Schisler. Would you like to
25 report something?

11:00AM

1 MR. SCHISLER: I was just going to say we're
2 ready to proceed with the plea.

3 THE COURT: All right.

4 During the recess, Mr. Chanthalangsy, did you
11:00AM 5 have a chance to confer to your satisfaction with
6 Mr. Schisler?

7 THE DEFENDANT: Yes.

8 THE COURT: The line of questions that I had
9 for you had to do with whether or not you understood --
11:01AM 10 or understand the nature of the charge that you're
11 proposing to plead guilty to. Let me back up a step and
12 ask you whether you have had an opportunity to review a
13 copy of the indictment that has been brought against you
14 in this case.

11:01AM 15 THE DEFENDANT: Yes, I have.

16 THE COURT: And do you understand that Count
17 Five charges you with possession of child pornography?

18 THE DEFENDANT: Yes.

19 THE COURT: And have you had an adequate amount
11:01AM 20 of time to confer with Mr. Schisler about the nature of
21 this charge of possession of child pornography?

22 THE DEFENDANT: Yes.

23 THE COURT: And do you, in fact, understand,
24 having conferred with Mr. Schisler, what all the
11:01AM 25 government would have to show at trial in terms of

1 evidence that they put on in order to sustain a finding
2 of guilt in this case?

3 THE DEFENDANT: Yes.

4 THE COURT: Have you, Mr. Schisler, reviewed
11:02AM 5 the indictment with Mr. Chanthalangsy and explained the
6 nature of the charges and, in particular, the nature of
7 the charge in Count Five, as well as explained to him
8 the potential consequences he would be facing should he
9 plead guilty?

11:02AM 10 MR. SCHISLER: I have done that. I did that
11 during recess, and I've done it on numerous occasions in
12 the past in connection with my representation of
13 Mr. Chanthalangsy in the case.

14 THE COURT: And have you answered any and all
11:02AM 15 questions that he may have had about the nature of the
16 charge in this Count Five and the consequences of
17 pleading guilty to it?

18 MR. SCHISLER: I have, your Honor.

19 THE COURT: All right. Let's talk about those
11:02AM 20 consequences, Mr. Chanthalangsy. The maximum possible
21 penalty that you could receive for a conviction on the
22 offense of possession of child pornography is as
23 follows: A maximum term of imprisonment of up to 20
24 years, a maximum fine of up to \$250,000, the possibility
11:03AM 25 of both imprisonment and a fine, a term of supervised

1 release for between five years and up to the rest of
2 your life, special assessment in the sum of \$100, a
3 special assessment in these types of cases for the
4 additional sum of \$5,000 unless it is established that
5 you were indigent, and any restitution as may be found
6 ordered by the Court.

11:03AM

7 Do you understand that each and every one of
8 the punishments that I just listed are what you are
9 potentially facing should I accept your guilty plea
10 today?

11:03AM

11 THE DEFENDANT: Yes.

12 THE COURT: Let me say one more word about
13 supervised release. This is a period of time that will
14 follow your release from formal incarceration. During
15 that period of time, you will be supervised by a
16 probation officer. They are supervising you for your
17 compliance with certain terms and conditions of
18 supervised release.

11:04AM

19 Should it be determined in this Court that you
20 are in violation of a condition of supervised release,
21 it is at least possible that as a consequence, you could
22 be sent back to the Bureau of Prisons for yet further
23 incarceration. Do you understand that?

11:04AM

24 THE DEFENDANT: Yes.

11:04AM

25 THE COURT: Do you understand that the crime

1 that you are proposing to plead guilty to is a sex
2 offense which would require you to comply with all
3 local, state, and federal sex offender registration
4 requirements?

11:05AM

5 THE DEFENDANT: Yes.

6 THE COURT: Sir, do you understand that the
7 offense that you're proposing to plead guilty to is a
8 felony?

9 THE DEFENDANT: Yes.

11:05AM

10 THE COURT: Do you understand that -- well, let
11 me ask you this: Are you a citizen of the United
12 States?

13 THE DEFENDANT: No.

11:05AM

14 THE COURT: Ordinarily noncitizens of the
15 United States who are convicted felons are deported from
16 this country upon fulfilling the terms of a sentence.
17 Do you understand that?

18 THE DEFENDANT: Yes.

11:05AM

19 THE COURT: Mr. Roberts or Mr. Schisler, do you
20 know whether Laos is one of those countries where
21 deportation is likely or not likely?

22 MR. ROBERTS: Your Honor, I think it's likely
23 in this case.

11:06AM

24 MR. SCHISLER: Your Honor, I don't know one way
25 or another, but I've advised him of the deportation

1 consequences as set out in the plea agreement.

2 THE COURT: All right. Thank you.

3 So, sir, do you understand that there is a
4 certain likelihood, or at least a certain very real
11:06AM 5 possibility, that upon the completion of any term of
6 imprisonment that you could be deported back to your
7 home country of Laos?

8 THE DEFENDANT: Yes.

9 THE COURT: Mr. Chanthalangsy, has anyone
11:06AM 10 forced you in any way to plead guilty?

11 THE DEFENDANT: No.

12 THE COURT: Has anyone made any threats to you,
13 a member of your family, or some other loved one that
14 some harm is going to come to you or to them if you
11:06AM 15 don't plead guilty?

16 (Off-the-record discussion between defendant
17 and counsel.)

18 THE DEFENDANT: No.

19 THE COURT: All right. Mr. Chanthalangsy, you
11:07AM 20 paused there. I want to make sure we're communicating
21 here.

22 One of my objectives here today is to make sure
23 that any guilty plea to this offense is given
24 voluntarily and so if someone has made a threat against
11:07AM 25 you or a threat against someone that you care about and

1 that's the reason that you're pleading guilty, then that
2 would be a concern to me and so that's the reason that
3 I'm asking.

4 Has anyone made any threats to you that is
11:07AM 5 causing you to want to plead guilty?

6 THE DEFENDANT: No.

7 THE COURT: Has anyone made any threats to a
8 loved one of yours that is causing you to want to plead
9 guilty?

10 THE DEFENDANT: No.

11 THE COURT: Is the reason that you desire to
12 plead guilty because you're guilty and for no other
13 reason?

14 THE DEFENDANT: Yes.

11:08AM 15 THE COURT: Do I understand correctly that the
16 parties have now entered into what is a fully executed
17 written plea agreement?

18 MR. ROBERTS: Yes, your Honor.

19 MR. SCHISLER: Yes, your Honor.

11:08AM 20 THE COURT: The original has been tendered to
21 the Court. I'd ask that a copy be given to
22 Mr. Chanthalangsy.

23 And Mr. Chanthalangsy, I would ask that you
24 turn over to the very last page, which is Page 15. Is
11:08AM 25 that your signature under the date of July 21st?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Did you read this plea agreement in
3 its entirety before you signed it?

4 THE DEFENDANT: Yes.

11:09AM

5 THE COURT: Did you have a full and complete
6 opportunity to confer with Mr. Schisler about the terms
7 of this plea agreement before you signed it?

8 THE DEFENDANT: Yes.

11:09AM

9 THE COURT: Did he explain it to you and answer
10 any and all questions you may have had?

11 THE DEFENDANT: Yes.

11:09AM

12 THE COURT: Mr. Chanthalangsy, I want to be
13 sure you understand something about this plea agreement.
14 Number one, it is contemplated that if the Court accepts
15 your guilty plea today and we get to the sentencing
16 hearing and the Court approves this plea agreement, then
17 one positive consequence of that from your perspective
18 would be that pursuant to this agreement, the Court
19 would dismiss the drug counts that are set forth in
20 Counts One through Four. Do you understand that?

11:10AM

21 THE DEFENDANT: Yes.

22 THE COURT: And following sentencing, if the
23 Court does approve the plea agreement, then that is, in
24 fact, what will happen.

11:10AM

25 There are other places in this plea agreement,

1 however, where the government has told you that they are
2 going to make certain recommendations to the Court at
3 sentencing; and I will certainly listen and earnestly
4 consider any recommendations that the government might
11:10AM 5 make, but I want to be clear that you understand that
6 just because the government has agreed in this plea
7 agreement to make a recommendation does not mean that
8 this Court is bound or obligated to go along with the
9 government's recommendation. Do you understand that?

11:11AM 10 THE DEFENDANT: Yes.

11 THE COURT: So in other words, despite any
12 particular provision in this plea agreement, the Court
13 retains the authority and discretion to sentence you to
14 any lawful sentence up to the statutory maximums that we
11:11AM 15 discussed a few moments ago. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Mr. Chanthalangsy, there is a
18 certain finality that goes along with pleading guilty
19 today. If we get to the end of this hearing and you
11:11AM 20 plead guilty, then you will be convicted of the charge
21 in Count Five at that point in time. You have no
22 automatic right to change your mind and come back,
23 whether it be tomorrow or next week or next month, and
24 seek to withdraw your guilty plea. Do you understand
11:12AM 25 that?

1 THE DEFENDANT: Yes.

2 THE COURT: And most certainly after the
3 sentencing hearing, if for some reason you don't like
4 the Court's sentence, you can't withdraw your guilty
11:12AM 5 plea just because you don't like the Court's sentence.
6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Has anyone made any promise to you
9 that this Court is going to give you any particular
11:12AM 10 sentence?

11 THE DEFENDANT: No. No.

12 THE COURT: Has Mr. Schisler explained the
13 United States sentencing guidelines to you?

14 THE DEFENDANT: Yes.

11:12AM 15 THE COURT: It is true that the Court is
16 required to apply the sentencing guidelines to the facts
17 of your case and to calculate what we call the guideline
18 range of punishment and to take that guideline range of
19 punishment into consideration as one sentencing factor;
11:13AM 20 but that does not mean that the Court is obligated to
21 give you a so-called guideline range sentence. Do you
22 understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: The reason that that's true is that
11:13AM 25 the guideline range is merely one among many other

1 factors.

2 For example, the Court is also required to look
3 at the totality of the circumstances that surround the
4 offense of conviction, as well as to consider your
11:13AM 5 personal history, background and characteristics; to
6 consider the sentences that have been imposed upon other
7 defendants who have been convicted of the same or
8 similar crime and who have the same or similar criminal
9 history; and the Court is also obligated to consider the
11:14AM 10 objectives and purposes for which we sentence people and
11 to craft a sentence that the Court believes is best
12 suited to achieving those purposes and goals.

13 So there are many factors other than simply
14 looking at the guideline range; and when these other
11:14AM 15 factors are taken into consideration, it could be that
16 the Court believes that the guideline range is too
17 harsh, and it could be that because of that that the
18 Court sentences you to something that is less than the
19 guideline range. Do you understand that?

11:14AM 20 THE DEFENDANT: Yes.

21 THE COURT: Of course, the opposite is also
22 potentially true. If -- after considering all of these
23 other sentencing factors, it is at least possible that
24 the Court could impose a sentence that is more severe,
11:15AM 25 which is to say more harsh than the guideline range. Do

1 you understand that as well?

2 THE DEFENDANT: Yes.

3 THE COURT: Mr. Chanthalangsy, if I accept your
4 guilty plea today, we will then enter a phase of these
11:15AM 5 proceedings known as the presentence investigation.

6 Officer Nguyen is the person likely to be conducting
7 that investigation. She'll collect information from the
8 government, she'll collect information from you and your
9 attorney, she will collect and verify information from a
11:15AM 10 variety of independent sources; and when she's completed
11 her investigation, she will reduce that to a written
12 document known as the presentence report.

13 Once that report has been finalized in the
14 sense that everyone's had a chance to look at it,
11:16AM 15 everyone's had a chance to make objections and any
16 unresolved objections have been ruled upon by the Court,
17 then at that point the Court takes the finalized version
18 of the presentence report and that becomes one of the
19 primary sources of information from which the Court
11:16AM 20 calculates the guideline range and applies and weighs
21 these other sentencing factors that I mention.

22 I want to explain all of that to you really to
23 make this point. You're pleading guilty to Count Five,
24 and it is understood that after sentencing, Counts One
11:16AM 25 through Four will be dismissed; but at sentencing, it is

1 fair game for the Court to consider any information that
2 has been reported by the government during the
3 presentence investigation phase, including any
4 information derived from its investigation that
5 surrounds the offense of conviction in this case.

6 So while you're not going to be convicted of
7 these other drug crimes, it could very well be that this
8 information is put before the Court and, if so, the
9 Court could take that information about these other
10 charges into account at the time of sentencing. That's
11 also true, for that matter, with regard to any uncharged
12 conduct.

13 Any information that the government acquires in
14 the course of its investigation that surrounds and
15 relates to your offense of conviction is known as
16 relevant conduct, and I want to be sure you understand
17 that it's fair game for the Court to take relevant
18 conduct information into consideration at the time of
19 sentencing. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Next, Mr. Chanthalangsy, we are
22 going to need to make sure that you admit to the facts
23 that make you guilty of the crime charged in Count Five.
24 The way we will do that is I'm going to ask the
25 government's attorney to state in open court the facts

1 that the government contends it could prove if the case
2 were to proceed to trial.

3 In effect, Mr. Roberts is going to be stating
4 the facts as set forth in Paragraph 5 of the plea
11:19AM 5 agreement; and you are welcome to follow along as he
6 does so, but please listen very carefully because when
7 he's finished with this statement of facts, the question
8 for you is going to be whether you agree with and admit
9 to the facts as stated.

11:19AM 10 Mr. Roberts?

11 MR. ROBERTS: Thank your Honor.

12 Beginning January of 2017, Homeland Security
13 Investigations and the Rogers Police Department
14 initiated an investigation into a drug trafficking
11:19AM 15 organization operating in Northwest Arkansas. Based on
16 said investigation, a search warrant was obtained for
17 the home of the defendant, Peng Chanthalangsy, which is
18 located in Benton County in the Western District of
19 Arkansas.

11:19AM 20 On or about March 13, 2017, the search warrant
21 was executed. At the residence, law enforcement
22 confiscated illegal narcotics, as well as all digital
23 devices used to facilitate drug transactions.

24 During a subsequent forensic examination of the
11:20AM 25 defendant's Cyborg IBuyPower computer, examiners noted

1 images of child pornography. At that time a second
2 search warrant was obtained to specifically examine the
3 defendant's computer for child pornography.

4 During the preceding forensic examination,
11:20AM 5 multiple images of minors engaging in sexually explicit
6 conduct as defined by federal law were located.
7 Specifically the defendant's CyborgX IBuyPower computer,
8 that was determined to be manufactured outside the State
9 of Arkansas, contained approximately 2,000 images or
11:20AM 10 videos of child pornography. One such image depicts a
11 prepubescent minor performing a sex act on an adult
12 male.

13 Thank you, your Honor.

14 THE COURT: Thank you, Mr. Roberts.

11:20AM 15 Mr. Chanthalangsy, do you understand that those
16 are the facts that the government contends it could
17 prove if the case proceeded to trial?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you agree with and admit to each
11:20AM 20 and every one of those facts?

21 THE DEFENDANT: Yes.

22 THE COURT: And do you further agree the
23 government could prove those facts if the case were to
24 proceed to trial?

11:21AM 25 THE DEFENDANT: Yes.

1 THE COURT: Mr. Schisler, can you state whether
2 or not you agree that the government could prove the
3 facts as stated by Mr. Roberts?

4 MR. SCHISLER: I do agree, your Honor.

11:21AM

5 THE COURT: All right. Thank you.

6 Well, based on our discussion and explanation
7 today, Mr. Chanthalangsy, I'm now going to ask you: How
8 do you plead to the charge of possession of child
9 pornography in child of federal law as set forth in
10 Count Five of the indictment? Do you plead guilty or
11 not guilty?

11:21AM

12 THE DEFENDANT: Guilty.

13 THE COURT: All right. Thank you very much,
14 sir.

11:21AM

15 It's going to be the finding of the Court in
16 this matter, number one, that Mr. Chanthalangsy is fully
17 competent and capable of entering an informed plea;
18 number two, that Mr. Chanthalangsy is aware of the
19 nature of the charge and the consequences of his guilty
20 plea; and number three, that the plea of guilty is a
21 knowing and voluntary plea supported by an independent
22 basis in fact which contains all of the essential
23 elements of the offense.

11:21AM

24 And therefore, sir, I am going to accept your
25 guilty plea. You are adjudged guilty of the crime as

11:22AM

1 set forth in Count Five of the indictment, and you will
2 leave this courtroom convicted of that charge.

3 I'm going to defer acceptance of the plea
4 agreement, however, until such time as I can be informed
11:22AM 5 by the results of the presentence investigation.

6 Now, a plea agreement also contemplates a
7 forfeiture of certain devices. A preliminary order of
8 forfeiture has been submitted to the Court for review.
9 Mr. Chanthalangsy, have you had a chance to review the
11:23AM 10 form and contents of this document entitled Preliminary
11 Order of Forfeiture?

12 THE DEFENDANT: Yes, I have.

13 THE COURT: And is this your signature on the
14 last page under the date of August 1st?

11:23AM 15 THE DEFENDANT: Yes.

16 THE COURT: And do you understand that you are,
17 in effect, consenting to forfeit all of the devices that
18 are itemized 1 through 7 on the first page of the order?

19 THE DEFENDANT: Yes.

11:23AM 20 THE COURT: All right. The form of the order
21 appears appropriate to the Court. The Court will sign
22 off on the preliminary order and ask that it be
23 published to the docket.

24 Officer Nguyen, I would ask that you begin the
11:23AM 25 presentence investigation in this case and report the

1 findings to counsel and to the Court.

2 Mr. Chanthalangsy, the presentence report
3 investigation itself takes about 90 days and then it
4 takes about 30 days after that to schedule you back in
11:24AM 5 here for a sentencing hearing. So give or take a couple
6 of weeks, we hope to have you back here in about four
7 months for a sentencing hearing.

8 Upon conclusion of this hearing,
9 Mr. Chanthalangsy will be remanded to custody of the
11:24AM 10 United States Marshals Service pending the sentencing
11 hearing.

12 Is there anything further today, Mr. Roberts?

13 MR. ROBERTS: No, your Honor. Thank you.

14 THE COURT: Mr. Schisler?

11:24AM 15 MR. SCHISLER: No, your Honor.

16 THE COURT: We're adjourned.

17 (Proceedings adjourned at 11:24 a.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER

2
3 I, Dana Hayden, Federal Official Realtime Court
4 Reporter, in and for the United States District Court
5 for the Western District of Arkansas, do hereby certify
6 that pursuant to Section 753, Title 28, United States
7 Code that the foregoing is a true and correct transcript
8 of the stenographically reported proceedings held in the
9 above-entitled matter and that the transcript page
10 format is in conformance with the regulations of the
11 Judicial Conference of the United States.

12 Dated this 13th day of March 13, 2018.

13
14
15
16 *Dana Hayden*

17 Dana Hayden, CCR, RMR, CRR
18 Federal Official Court Reporter
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